



## **Calgary Assessment Review Board**

### **DECISION WITH REASONS**

In the matter of the complaint against the property assessment as provided by the *Municipal Government Act*, Chapter M-26, Section 460, Revised Statutes of Alberta 2000 (the Act).

**between:**

***Cidex Developments Ltd. (as represented by Altus Group Ltd.), COMPLAINANT***

**and**

***The City Of Calgary, RESPONDENT***

**before:**

***Board Chair; J. Zezulka  
Board Member; R. Deschaine  
Board Member; K. Farn***

This is a complaint to the Calgary Assessment Review Board in respect of a property assessment prepared by the Assessor of The City of Calgary and entered in the 2013 Assessment Roll as follows:

**ROLL NUMBER: 067085308**

**LOCATION ADDRESS: 1002 -14 Avenue SW**

**FILE NUMBER: 73273**

**ASSESSMENT: \$3,510,000**

This complaint was heard on 18 day of June, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 5.

Appeared on behalf of the Complainant:

- *D. Chabot*

Appeared on behalf of the Respondent:

- *L. Wong*
- *R. Ford*

**Board's Decision in Respect of Procedural or Jurisdictional Matters:**

(1) There were no procedural or jurisdictional matters raised by either party, and the CARB proceeded to hear the merits of the complaint as outlined below.

**Property Description:**

(2) The property is known as the Lighting Centre, located in the Non residential Zone BL5 of the Beltline District in south west Calgary. The building consists of a 14,580 s.f. "B" class retail building, constructed in 1976. The site area is 20,940 s.f. Site coverage is 55 per cent.

**Issues / Appeal Objectives**

(3) The premises are currently being assessed as vacant land, at a rate of \$167.62 per s.f. The Complainant disputes the valuation method, whose argument appears to centre on the issue of Highest and Best Use, and equity. The Complainant maintains that the Assessor has disrupted equity, because the subject has not been valued in the same manner as other class "B" retail buildings in the area, but rather has been valued as an undeveloped site, which the Assessor maintains is the Highest and Best Use of the site. The Complainant maintains that the City's conclusion of Highest and Best Use for assessment purposes does not result in an assessment that properly reflects market value.

**Complainant's Requested Value:**

(4) \$3,110, 000

**Board's Decision:**

(5) The assessment is confirmed.

**Legislative Authority, Requirements and Considerations:**

(6) This Board derives its authority from section 460.1(2) of the Municipal Government Act, being Chapter M-26, section 460 of the Revised Statutes of Alberta. For purposes of this Complaint, there are no extraneous requirements or factors that require consideration.

**Position/Evidence of the Parties****Complainant's Position:**

(7) In support of the requested assessment, the Complainant submitted an income calculation based on a rental analysis consisting of four comparable property rents, as well as the standard inputs used by the city in the assessment of similar retail properties.

(8) The Complainant also submitted a past CARB decision supporting the proposition that the subject should be valued by the income approach.

**Respondent's Position:**

(10) The Respondent maintains that the subject should be valued as a vacant land parcel, at \$160.00 per s.f. In support of the land rate, the Respondent submitted four comparable land sales that reflect per s.f. prices from \$97.88 to \$186.22 per s.f. The mean is \$154.35, and the median is \$166.64 per s.f.

(11) The Respondent submitted past Carb decisions that support the City's position on Highest and Best Use, and subsequent valuation methodology.

(12) Finally, the Respondent produced documents that showed that the subject was sold in November 2011, for \$3,500,000. The transaction was a court ordered sale, and the property was advertised as a redevelopment site.

**Board's Reasons for Decision:**

(13) The past CARB decisions submitted by the Respondent are sometimes of interest to the Board. However, they are not considered as evidence, and have only limited value. Without hearing all of the evidence that led to the decision, it is difficult to place much reliance on the result.

(14) The Complainant's evidence regarding the income calculations were not challenged by the Respondent. At the same time, no evidence relating to the Complainant's adopted building classification was submitted, and therefore the varacity of the inputs could not be tested.

(15) As far as the issue of Highest and Best Use is concerned, it is often said that looking into the future is conjectural at best, and that without a proper study, any argument that the current use is not the Highest and Best Use is based on speculation. However, in this instance, there is a sale of the subject at a price virtually equal to the assessed value. The transaction occurred about seven months prior to the valuation date. Arguably, the sale was court ordered, and the courts typically resist the use of court ordered sales in establishing value. However, court ordered sales usually result in prices lower, not higher, than market value.

(16) The sale of the subject property was reported by a reputable reporting agency. The sale was reported as the sale of a "Redevelopment Site", prior to the effective date of valuation. Clearly, in this instance, the market viewed the property as having different potential than the existing building, and that potential was reflected in the bid price from the foreclosure offering. In the opinion of this Board, the current assessment is simply a reflection of that same thinking.

DATED AT THE CITY OF CALGARY THIS 23<sup>rd</sup> DAY OF July 2013.

  
Jerry Zezulka

Presiding Officer

**APPENDIX "A"****DOCUMENTS PRESENTED AT THE HEARING  
AND CONSIDERED BY THE BOARD:****NO. ITEM**

1. C1 Complainant Disclosure
2. R1 Respondent Disclosure

*An appeal may be made to the Court of Queen's Bench on a question of law or jurisdiction with respect to a decision of an assessment review board.*

*Any of the following may appeal the decision of an assessment review board:*

- (a) *the complainant;*
- (b) *an assessed person, other than the complainant, who is affected by the decision;*
- (c) *the municipality, if the decision being appealed relates to property that is within the boundaries of that municipality;*
- (d) *the assessor for a municipality referred to in clause (c).*

*An application for leave to appeal must be filed with the Court of Queen's Bench within 30 days after the persons notified of the hearing receive the decision, and notice of the application for leave to appeal must be given to*

- (a) *the assessment review board, and*
- (b) *any other persons as the judge directs.*

**For MGB Administrative Use Only**

Decision No. 73273P/2013			Roll No. 067085308	
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	Land	Highest and Best Use	N/A	Valuation Methodology